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THOMAS J. D'AMICO
DICKSTEIN SHAPIRO MORIN & OSHISK LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

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SEP 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Steven T. Harshfield et al	:	
Application No. 09/853,233	:	DECISION DISMISSING PETITION
Filed: May 11, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MICS:0061	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 1, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition did not come to the attention of the deciding official's office until September 11, 2006, which is after the issue date of September 5, 2006 of this application. *Note* MPEP § 1308. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The inconvenience caused petitioner in this matter is sincerely regretted. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

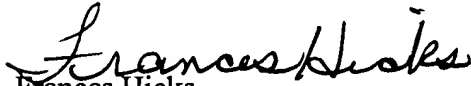
In view of the above, the request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the \$790 filing fee and the \$130 petition fee submitted are unnecessary and will be refunded to petitioner's deposit account in due course.

The Information Disclosure Statement has been placed of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address

given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

A handwritten signature in black ink, appearing to read "Frances Hicks". The signature is fluid and cursive, with the first name "Frances" written in a larger, more prominent script than the last name "Hicks".

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Thomas J. D'Amico
Dickstein Shapiro LLP
1825 Eye Street NW
Washington, DC 20006